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Letter dated 12 August 2002 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 27 December 2001 (S/2002/1297).

The Counter-Terrorism Committee has received the attached supplementary report from the European Union, submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I should be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman
Counter-Terrorism Committee

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Annex

Note verbale dated 8 August 2002 from the Permanent Representative of Denmark to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

The Permanent Mission of Denmark to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism and has the honour to refer to his note S/AC.40/2002/MS/OC.104.

Pursuant to paragraph 6 of resolution 1373 (2001), the Permanent Mission of Denmark has the honour to transmit the supplementary report of the European Union containing the coordinated response of its 15 member States (Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, Sweden and the United Kingdom of Great Britain and Northern Ireland) on the steps they have taken to implement the resolution (see enclosure).

Enclosure

Report of the European Union to the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

Please find attached the report of the European Union on counter-terrorism measures, transmitted by the Presidency on behalf of the European Union.

The report was drafted by the Council and the Commission and adopted by the Council on 26 July.

(*Signed*) Per Stig **Møller**
Minister for Foreign Affairs of the Kingdom of Denmark

Supplementary report by the European Union to the Committee established under paragraph 6 of Security Council resolution 1373 (2001)

On 28 December 2001 the European Union submitted its report on the implementation of United Nations Security Council Resolution 1373(2001) to the Committee established by the Security Council – the Counter Terrorism Committee. In a letter dated 10 June 2002, the Counter Terrorism Committee requested clarification of some aspects of the report. In the following supplementary report the European Union seeks to provide the requested clarifications.

As the first report the supplementary report covers actions taken within the framework of the Treaty on the European Union and the Treaty Establishing the European Community and not actions undertaken by individual Member States outside this framework.

Review of the European Union of its relations with third countries in light of the stand taken by those countries in combating terrorism (Sub-paragraph 2 a):

As set out in the first report the European Union is reconsidering its relations with third countries in the light of the stand taken by those countries in combating terrorism. To this end, the European Union has initiated a systematic evaluation of its relations with third countries. On the basis of the evaluation the Council considers whether any operational measures should be taken in relation to third countries, which could encompass cooperation and political dialogue, technical assistance, inclusion of terrorism clauses in agreements with the country in question etc. The European Union is still in the process of reviewing its relations with third countries.

The Seville European Council of 21-22 June 2002 confirmed the inclusion of counter-terrorism clauses in agreements with third countries as an important instrument to be used by the European Union in encouraging effective policies to fight terrorism in other parts of the world[1]. An understanding has been reached on a

[1] Declaration of the European Council on the Contribution of CFSP, including ESDP, in the fight against terrorism, Annex V to the Presidency Conclusions, Seville European Council, 21-22 June 2002.

standard wording to be used in such clauses. However, several agreements concluded prior to this also include relevant provisions: EU agreements with Croatia, Egypt and FYROM thus contain non-standard provisions on counter-terrorism. Owing to agreements already being in force, joint declarations addressing the issue of terrorism have moreover been adopted or are under discussion with Canada, India, Japan, Pakistan and South Korea. The standard wording for counter-terrorism clauses has already been used for the counter-terrorism provisions in agreements with Algeria, Chile and Lebanon, and is envisaged as the basis for other agreements to be concluded.

The wording used in agreements with Algeria, Chile and Lebanon sets out the obligations of the Parties, first of all by reaffirming the importance of the fight against terrorism. It is intended that thanks to the clause, better co-operation in the prevention and suppression of acts of terrorism in accordance with international conventions and with the Parties' respective legislation and regulations can be achieved. In particular, the agreements foresee co-operation in the framework of the full implementation of Resolution 1373 and other relevant UN resolutions, international conventions and instruments, by the exchange of information on terrorist groups and their support networks in accordance with international and national law, by the exchange of views on means and methods used to counter terrorism, including in technical fields and training, and by the exchange of experiences in respect of terrorism prevention. In practical terms, the clause makes it possible to address the issue of counter-terrorism in a focused way for the benefit of both Parties to the agreement.

The Danish Presidency plans to improve the evaluation of relations with third countries, in particular as regards the fight against terrorism, in order to make best use of the counter-terrorism clause as a tool in existing agreements or in the negotiation of possible future agreements.

Proposals to consider European Union co-operation and exchange of information on counter-terrorism measures with member countries of the United Nations other than the United States and with international specialized or regional organizations (Sub-paragraph 3):

In addition to negotiating an agreement on judicial co-operation in criminal matters (mutual legal assistance/extradition) with the United States, the European Union is interested in developing judicial co-operation with a number of other countries and through international organisations. The objective of improving judicial co-operation is included in Action Plans with Russia and the Ukraine, where the next step is to establish judicial contact points for exchange of information. The Joint Statement between the European Union and Canada on combating terrorism highlighted the importance of enhancing judicial co-operation, and similar joint declarations have been adopted with other countries (*see also the reply to the question concerning counter-terrorism clauses*). Moreover, Eurojust, the European judicial cooperation Unit, which was formally created in March of this year, will be able to conclude cooperation agreements with third countries.

Furthermore Europol can - in accordance with the Europol Convention - establish and maintain co-operation with third States and third bodies. Against this background Europol has concluded a number of co-operation agreements with third States and third bodies, including agreements providing for the exchange of personal data.

With regard to co-operation with international organizations, the EU is actively involved in the work of the OSCE, the implementation of the action plan of the Ministers of the Council of Europe and the work of the Multi-Disciplinary Working Group on Terrorism. The European Union is also developing close co-operation on counter-terrorism with its partners in the biregional cooperation between the EU and Latin America/the Caribbean, ASEM (Asia-Europe Meeting), ARF (the ASEAN Regional Forum), the Barcelona process, the Centre for international crime prevention in Vienna, etc. With regard to the co-operation with ASEM, it is intended to comprise concrete actions aimed *inter alia* at the implementation of international instruments such as Resolution

1373, and build on existing ASEM initiatives on transnational organized crime and law enforcement matters, in areas such as the fight against corruption, money-laundering and trafficking in women and children.

Furthermore, as was emphasized by the European Council in Seville, providing third countries with appropriate assistance for taking effective action against international terrorism is an important priority for the EU in its contribution to the global coalition against terror, and to the worldwide implementation of Resolution 1373 in particular[2]. As was stated by the European Union in its initial report to the Counter-Terrorism Committee, extensive assistance is already being provided to many third countries in the areas covered by Resolution 1373. Since the submission of the first report, the European Commission has examined its external assistance programmes in the light of Resolution 1373 to establish what kind of assistance facilitating its implementation is already being provided, and what further assistance is possible. An overview of the results of this review was provided to the Counter-Terrorism Committee in March 2002 and has been integrated into the CTC's directory of available assistance. The European Union will continue to work closely with the CTC, notably with a view to establishing how relevant assistance can be targeted most effectively to facilitate implementation of the Resolution.

Freezing of funds of designated persons and entities (Sub-paragraph 1c):

Since the submission of the first EU report to the Counter-Terrorism Committee, the Security Council has adopted Resolution 1390(2002) concerning Al Qaida and the Taliban. The restrictions foreseen by that Resolution are such that in the Community they require a legal base in addition to those mentioned in that report (Article 308 of the EC Treaty). Following the adoption of Common Position 2002/402/CFSP[3] and after consultation of the European

[2] Declaration of the European Council on the Contribution of CFSP, including ESDP, in the fight against terrorism, Annex V to the Presidency Conclusions, Seville European Council, 21-22 June 2002.

[3] Common Position 2002/402/CFSP of 27 May 2002, Official Journal L 139 of 29 May 2002.

Parliament, Council Regulation (EC) No 881/2002 was adopted on 27 May 2002 which repeals the sanctions of Regulation (EC) No 467/2001. In line with Resolution 1390(2002), Regulation (EC) No 881/2002 freezes both funds and economic resources, belonging to or owned by a natural or a legal person, group or entity designated by the UN Sanctions Committee.

On the basis of decisions made by the UN Security Council or the Sanctions Committee, the European Commission regularly updates the list of targeted persons, groups and entities. The list was last updated on 3 June 2002.

As indicated in the first report, the European Union adopted Common Position 2001/931/CFSP[4] on 27 December 2001 which is an instrument of the EU's Common Foreign and Security Policy and of Police and Judicial Co-operation in Criminal Matters. At the same time, the Council also adopted Regulation (EC) No. 2580/2001[5] implementing the freezing measures foreseen in that Common Position. The Regulation does not include freezing measures that may be applied by Member States in respect of persons, groups and entities which are not subject to foreign policy measures. Moreover, according to Common Position 2001/931/CFSP, Member States shall, through police and judicial cooperation in criminal matters, afford each other the widest possible assistance in preventing and combating terrorist acts.

As of 18 June 2002, the freezing measures of Regulation (EC) No 2580/2001 apply to 8 natural persons and 20 groups and entities. The list is set out in Decision 2002/460/EC and is being kept under review[6].

[4] Common Position of 27 December 2001 (2001/931/CFSP), published in Official Journal of the European Communities No. L 344/93 of 28 December 2001.

[5] Council Regulation (EC) (EC) No. 2580/2001 of 27 December 2001, published in Official Journal of the European Communities No. L344/70 of 28 December 2001.

[6] Council Decision of 17 June 2002 (2002/460/EC), published in Official Journal of the European Communities No. L 160/26 of 18 June 2002.

The list is established by the Council acting by unanimity. The criteria that have to be met are spelled out in Article 1(4) of Common Position 2001/931/CFSP:

"The list in the Annex shall be drawn up on the basis of precise information or material in the relevant file which indicates that a decision has been taken by a competent authority in respect of the persons, groups and entities concerned, irrespective of whether it concerns the instigation of investigations or prosecution for a terrorist act, an attempt to perpetrate, participate in or facilitate such an act based on serious and credible evidence or clues, or condemnation for such deeds. [...]

For the purposes of this paragraph "competent authority" shall mean a judicial authority, or, where judicial authorities have no competence in the area covered by this paragraph, an equivalent competent authority in that area."

Proposals for listing, or maintaining persons, groups and entities on the lists are examined by the relevant national authorities of the Member States before the Council endorses them. The procedure that has been agreed upon grants these authorities a minimum period of two weeks for vetting and consideration. Discussions in Council about the list are secret.

Progress report on the implementation of the EU Framework Decision on combating terrorism (Sub-paragraph 2 e):

The EU Framework Decision on combating terrorism has now been formally adopted by the Council of the European Union and entered into force with its publication in the Official Journal of the European Communities on 22 June 2002[7]. Member States have until 31 December 2002 to comply with the decision.

[7] Council Framework Decision of 13 June 2002 on combating terrorism (2002/475/JHA), published in Official Journal of the European Communities No. L 164/3 of 22 June 2002.